In the Matter of the Accusation Against:

SANG SUK LEE, L.Ac.
6693 Downey Avenue
Long Beach, CA 90805
Acupuncturist License No. AC 16636,
Respondent.

Complainant alleges:

PARTIES

1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

2. On or about April 29, 2015, the Acupuncture Board issued Acupuncturist License Number AC 16636 to Sang Suk Lee, L.Ac. (Respondent). The Acupuncturist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2020, unless renewed.

JURISDICTION

3. This Accusation is brought before the Acupuncture Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the
Business and Professions Code unless otherwise indicated.

4. Section 4928.1 of the Code states:

"Protection of the public shall be the highest priority for the Acupuncture Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

5. Section 4927, of the Code states, in pertinent part:

"As used in this chapter, unless the context otherwise requires:

"...

"(d) 'Acupuncture' means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion."

6. Section 4955 of the Code states, in pertinent part:

"The board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct.

"Unprofessional conduct shall include, but not be limited to, the following:

"...

"(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the violation of the terms of this chapter or any regulation adopted by the board pursuant to this chapter.

"...

"(i) Any action or conduct that would have warranted the denial of the acupuncture license.

"..."

7. Section 4937 of the Code states, in pertinent part:

"An acupuncturist's license authorizes the holder thereof:

“(a) To engage in the practice of acupuncture.

“..."
8. Section 4955.1 of the Code states, in pertinent part:

"The board may deny, suspend, revoke, or impose probationary conditions upon the license of any acupuncturist if he or she is guilty of committing a fraudulent act including, but not be limited to, any of the following:

"...(e) Failing to maintain adequate and accurate records relating to the provision of services to their patients."

9. Section 4955.2 of the Code states:

"The board may deny, suspend, revoke, or impose probationary conditions upon the license of any acupuncturist if he or she is guilty of committing any one of the following:

"(a) Gross negligence.
(b)Repeated negligent acts.
(c) Incompetence."

10. California Code of Regulations, Title 16, section 1399.453 provides as follows:

"An acupuncturist shall keep complete and accurate records on each patient who is given acupuncture treatment, including but not limited to, treatments given and progress made as a result of the acupuncture treatments."

COSTS

11. Section 4959 of the Code states:

"(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable costs of the investigation and prosecution of the case.

"(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

"(c) When the payment directed in the board's order for payment of costs is not made by the
licensee, the board may enforce the order for payment in the superior court in the county where
the administrative hearing was held. This right of enforcement shall be in addition to any other
rights the board may have as to any licensee directed to pay costs.

“(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
conclusive proof of the validity of the order of payment and the terms for payment.

“(e) All costs recovered under this section shall be considered a reimbursement for costs
incurred and shall be deposited in the Acupuncture Fund.”

FACTUAL ALLEGATIONS

12. Patient B was a 41 year-old man who injured his back at work in January 2015. He
was referred by his worker's compensation physician for acupuncture treatment of a “lumbar disc
bulge.”

13. On or about August 13, 2015, Respondent evaluated Patient B for low back pain at
the physical therapy clinic at which Respondent worked. After her evaluation Respondent
performed soft tissue manipulation/myofascial release and infrared treatment on Patient B.

14. On Thursday, August 20, 2015, Patient B went to the physical therapy clinic at which
Respondent worked for Respondent to give him his first acupuncture and infrared treatment.
Respondent inserted the needles into the patient sometime after 4:45 p.m. Respondent did not
document the location of the needles. Respondent did not provide aftercare instructions to the
patient. Patient B fell asleep during the treatment. When Patient B awoke between 6:00 p.m. and
6:20 p.m. the room was dark. Patient B yelled but no one responded. Respondent did not have a
protocol in place to ensure all treatment rooms were empty before she left for the day.

15. Patient B attempted to get off of the acupuncture treatment table but was unable to do
so as the acupuncture needles were still inserted into his body. When the patient attempted to get
off of the treatment table, he fell a distance of approximately 42 inches to the floor. Patient B
sustained injuries to his left arm, wrist, hand, shoulder, hips, knee, neck and back as a result of his
fall.

1 The names of the patient and/or witnesses are abbreviated to protect their privacy rights. The names will
be provided to Respondent upon written request for discovery.
16. Due to his injuries and the fact that the acupuncture needles were still in, Patient B had to slowly crawl to the reception area where he discovered the office doors were locked. The patient then called his brother who called the police who in turn called the fire department. The fire department personnel had to utilize a saw to cut open the clinic door and release the patient. Patient B was locked within the clinic for two (2) to three (3) hours.

17. The paramedics removed eight (8) needles from Patient B’s lower spine. The patient was then transported by ambulance to the nearest hospital. Patient B had a known history of high blood pressure and his vital signs were extremely abnormal during his initial hospital evaluation. The hospital medical personnel found Patient B was “very anxious” and the patient had spasms throughout his lower back. Several hours after his admission Patient B was discharged from the hospital. Patient B subsequently received chiropractic care for injuries sustained in the incident.

18. Patient B filed a complaint with the Acupuncture Board regarding what occurred during his August 20, 2015, acupuncture treatment. Subsequently as part of the investigation a Department of Consumer Affairs investigator interviewed Respondent regarding Patient B’s treatment. During her interview Respondent stated that on August 20, 2015, she treated 25 patients between 1:00 p.m. and 6:00 p.m. and it was a very busy day for her. Respondent stated she was running late and missed lunch but insisted she was not preoccupied.

19. Respondent stated she customarily worked alone every Thursday afternoon, with no receptionist present on Thursdays. Respondent told the investigator that because there was a higher than normal number of patients that day Respondent chose to treat Patient B in a “physical therapy room” not in “a normal acupuncture room.” Respondent stated she last saw Patient B at approximately 5:30 p.m.

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

20. Respondent is subject to disciplinary action under 4955.2, subsection (a), in that she was grossly negligent in her care and treatment of Patient B. The circumstances are as follows:

21. Respondent’s care and treatment of Patient B as set forth above includes the following acts and/or omission which constitutes an extreme departure from the standard of care:
22. Respondent abandoned Patient B.

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

23. Respondent is subject to disciplinary action under section 4955.2, subdivision (b), of the Code, in that she has committed repeated acts of negligence in the practice of acupuncture with respect to Patient B. The circumstances are as follows:

24. Complainant refers to, and by reference incorporates herein paragraphs 12 through 19, inclusive, above.

25. Respondent was negligent when she failed to document which acupuncture points were needled.

26. Respondent was negligent when she failed to have a protocol to use to ensure that the patient was not abandoned during acupuncture treatment.

27. Respondent was negligent when she failed to ensure the acupuncture needles were removed from the patient.

28. Respondent was negligent when she failed to personally remove the needles from the patient.

29. Respondent was negligent when she failed to remove the needles from the patient and inspect the patient’s body for bleeding or complications from the treatment.

30. Respondent was negligent when she failed to protect the patient from falling when the patient sat up and to protect from a possible vasovagal response after a treatment and removal of the needles from the patient.

31. Respondent was negligent when she failed to provide aftercare instructions to the patient after the treatment.

32. Respondent was negligent when she failed to ensure that the patient left the office safely.

33. Respondent was negligent when she failed to have a protocol to use to ensure all

Vasovagal is a temporary fall in blood pressure, with pallor, fainting, sweating, and nausea, caused by over activity of the vagus nerve.
treatment rooms were empty before leaving at the end of the day.

THIRD CAUSE FOR DISCIPLINE

(Record Keeping)

34. Respondent is subject to disciplinary action under section 4955, subdivision (e) of the Code, and California Code of Regulations, title 16, section 1399.453, in that she failed to maintain adequate and accurate records relating to the provision of services to Patient B. The circumstances are as follows:

35. Complainant refers to, and by reference incorporates herein, paragraphs 12 through 19, inclusive, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

36. Respondent is subject to disciplinary action under section 4955 of the Code in that she engaged in unprofessional conduct. The circumstances are as follows:

37. Complainant refers to, and by reference incorporates herein, paragraphs 11 through 18, inclusive, above.
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Acupuncture Board issue a decision:

1. Revoking or suspending Acupuncturist License Number AC 16636, issued to Sang Suk Lee, L.Ac.;

2. Ordering Sang Suk Lee, L.Ac. to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;

3. If placed on probation, ordering her to pay to the Acupuncture Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: NOV 19 2018

BENJAMIN BODEA
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant